

United States District Court

EASTERN DISTRICT OF WISCONSIN

JUDGMENT IN A CIVIL CASE

UNITED STATES OF AMERICA,

V.

CASE NUMBER: **04-C-267**
(00-Cr-83)

PLAZE E. ANDERSON,

Movant.

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came on for consideration and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that movant Plaze E. Anderson's petition pursuant to Title 28, United States Code, Section 2255, is **DENIED**.

Movant's first claim of ineffective assistance of trial counsel is **DENIED** because he has not established that his attorney's performance was unreasonable, and that the deficiency prejudiced the outcome of the case.

Movant's second claim that his counsel failed to object to the Court's determination of the quantity of narcotics involved in the offense at his sentencing hearing is without merit because his attorney's failure to anticipate the Supreme Court's holding in *Blakely v. Washington*, 542 U.S. 296 (2004) and *United States v. Booker*, 543 U.S. 220 (2004) is not constitutionally deficient.

Movant's third claim that the Court erred by enhancing his sentence because the Court relied on findings of fact that were not presented to the jury is without merit because the holding in *Booker* is not retroactively applicable on collateral review.

Movant's motion to amend his petition to add a claim which alleges the Court violated the holding of *Blakely* when it sentenced him is DENIED.

Movant's motion to amend his petition to add a claim of ineffective assistance of appellate counsel is DENIED.

Movant's motion to stay this action pending the disposition of a case before the United States Supreme Court which will allow the Supreme Court to consider whether *Blakely* is retroactively applicable is DENIED.

This case is hereby DISMISSED.

August 15, 2006
Date

SOFRON B. NEDILSKY
Clerk

s/ Linda M. Zik
(By) Deputy Clerk